

KING & SPALDING, LLP

191 Peachtree Street
Atlanta, Georgia 30303-1763
Telephone: 404/572-4600
Facsimile: 404/572-5100
www.kslaw.com

RECEIVED
CENTRAL FAX CENTER

NOV 07 2005

FAX TRANSMITTAL SHEET

November 7, 2005

TO: Examiner T. Arani
GAU 2131
U.S. Serial No. 09/447,500

Company: U.S. Patent and Trademark Office

Fax #: 571-273-8300

City/State: Alexandria, VA 22313

Mail Stop Amendment

FROM: Steven P. Wigmore 5551 **Our Ref. #:** 05456.105034

NUMBER OF PAGES (including transmittal sheet): *7 JW*

CONFIDENTIALITY NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE USE OF THE ADDRESSEE LISTED ABOVE. IF YOU ARE NEITHER THE INTENDED RECIPIENT NOR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TELECOPIED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF THE ORIGINAL DOCUMENTS TO US.

If transmission problems occur or you are not the intended recipient, please call 404.572.2459 immediately.
Thank you.

Notes/Comments:

Documents Submitted Via Facsimile:

Applicant: Robert David Graham

Serial No.: 09/447,500

Filed: November 23, 1999

For: *JW* A Method and Apparatus for Providing Network and Computer System Security

Papers Faxed: RESPONSE TO EXAMINER'S LETTER OF OCTOBER 5, 2005 -
REQUESTING CONCISE EXPLANATIONS OF RELEVANCE (6 pgs.)

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

In re Application of:) Art Unit: 2131 NOV 07 2005
Robert David Graham) Examiner: T. Arani
Serial No.: 09/447,500) Docket No.: 05456.105034
Filed: November 23, 1999) Conf. No.: 3902
For: Method and Apparatus for Providing)
Network and Computer System Security)

RESPONSE TO EXAMINER'S LETTER OF OCTOBER 5, 2005 - REQUESTING
CONCISE EXPLANATIONS OF RELEVANCE FOR ENGLISH LANGUAGE
INFORMATION SUPPLIED IN THE IDS FILED ON JULY 25, 2005

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

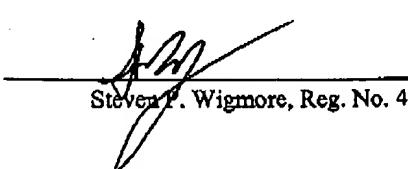
November 7, 2005
(Monday)

Sir:

This letter is in response to the Examiner's letter of October 5, 2005 that requests that the Applicant to furnish the Examiner with concise explanations of relevance for the non-patent English language documents that were supplied in the IDS filed on July 25, 2005. The Applicant notes that the IDS filed on July 25, 2005 was timely filed after a non-final Office Action and had the requisite fee under 37 C.F.R. § 1.17(p) for its proper consideration by the Examiner.

In the Examiner's letter of October 5, 2005, the Examiner has quoted the last paragraph of M.P.E.P. § 609.04(a) found on page 600-149 of the third revision of the M.P.E.P. that was published in August 2005. This paragraph of the M.P.E.P. acknowledges that a concise explanation of the relevance of information in the English language is not required under 37 C.F.R. 1.98, although patent applicants are encouraged by the USPTO to provide such

I hereby certify that this correspondence is being facsimile transmitted to: Mail Stop Amendment, The Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, Attn: Examiner T. Arani, GAU 2131, Facsimile No. 571-273-8300, on November 7, 2005.


Steven P. Wigmore, Reg. No. 40,447

Appl. Serial No. 09/447,500

explanations of why English language information is being submitted and how it is understood to be relevant. Therefore, any such submissions of concise explanations for documents written in English by the patent Applicant are completely voluntary.

The second paragraph of the Examiner's October 5th letter further states that the Applicant is given one month from the date of the notice in which to supply any of the voluntary information mentioned above. The Examiner's second paragraph is derived from the last four sentences of M.P.E.P. form paragraph 6.51 entitled, "Time for Completing Information Disclosure Statement," found on page 600-157 of the third revision of the M.P.E.P. that was published in August 2005. The last sentence of the Examiner's second paragraph states that the Applicant's failure to timely comply with this notice will result in the information disclosure statement of July 25, 2005 being placed in the application file with the non-complying information not being considered.

Because the information requested by the Examiner is completely voluntary, any information contained in this response will comply with the Examiner's notice and therefore, all information submitted in the information disclosure statement of July 25, 2005 must be considered by the Examiner. Initialed copies of the PTO-1149s forms provided with the information disclosure statement of July 25, 2005 are respectfully requested from the Examiner.

Voluntary Concise Explanations of Relevance for English Language Documents

The Applicant appreciates the Examiner's concern that the IDS filed on July 25, 2005 contains a large volume of material. This large volume of material includes U.S. Patents, U.S. Patent Application Publications, Foreign Patents, and English language publications. The Applicant recognizes that the prior art of the IDS filed on July 25, 2005 is voluminous but it is not the Applicant's intent to "bury" any patents or publications that maybe more pertinent than other ones. The Applicant does not want to dismiss any reference that he is aware of as cumulative in order to prevent third parties from arguing that the Applicant intentionally did not submit any prior art in an effort to deceive the Examiner and the Patent Office. See Semiconductor Energy Laboratory Co. v. Samsung Electronics Co., 204 F.3d 1368, 1376, 54 USPQ2d 1001, 1007 (Fed. Cir. 2000) that is cited by M.P.E.P. § 609.04(a), page 600-149, first column, second full paragraph (3rd Rev., August 2005).

Appl. Serial No. 09/447,500

To assist the Examiner in reviewing the IDS of July 25, 2005, the Applicant has conducted a key word search of each U.S. patent and U.S. patent application publication listed on the attached Form PTO-1449. The Applicant used the following search terms in his query of the U.S. patents and U.S. patent application publications: (1) "computer\$"; (2) "(variable\$ or level\$ or degree\$)" (3) "(scan or scann\$)", (4) "secur\$", and (5) "network\$." The Applicant used Boolean logic when performing this search in which each term was linked by the logical connector "AND." A search of these U.S. patents and U.S. patent application publications using the aforementioned terms and Boolean search logic yielded the following results (57 patents and 5 publications that were cited on the PTO-1449 form in the July 25, 2005 IDS submission):

U.S. Patents
U.S. Patent No. 5,032,979 to Hecht et al.
U.S. Patent No. 5,359,659 to Rosenthal
U.S. Patent No. 5,414,833 to Hershey et al.
U.S. Patent No. 5,440,723 to Arnold et al.
U.S. Patent No. 5,475,839 to Watson et al.
U.S. Patent No. 5,649,185 to Antognini et al.
U.S. Patent No. 5,764,890 to Glasser et al.
U.S. Patent No. 5,796,942 to Esbensen
U.S. Patent No. 5,815,574 to Fortinsky
U.S. Patent No. 5,832,208 to Chen et al.
U.S. Patent No. 5,842,002 to Schnurer et al.
U.S. Patent No. 5,919,258 to Kayashima et al.
U.S. Patent No. 5,940,591 to Boyle et al.
U.S. Patent No. 5,983,348 to Ji
U.S. Patent No. 5,987,610 to Franczek et al.
U.S. Patent No. 6,006,016 to Faigon et al.
U.S. Patent No. 6,016,553 to Schneider et al.
U.S. Patent No. 6,041,347 to Harsham et al.
U.S. Patent No. 6,061,795 to Dircks et al.
U.S. Patent No. 6,070,190 to Reps et al.
U.S. Patent No. 6,081,894 to Mann
U.S. Patent No. 6,094,731 to Waldin et al.
U.S. Patent No. 6,185,689 to Todd, Sr. et al.
U.S. Patent No. 6,205,552 to Fudge
U.S. Patent No. 6,226,372 to Beebe et al.
U.S. Patent No. 6,271,840 to Finseth et al.
U.S. Patent No. 6,272,641 to Ji
U.S. Patent No. 6,275,938 to Bond et al.
U.S. Patent No. 6,298,445 to Shostack et al.

Appl. Serial No. 09/447,500

U.S. Patents
U.S. Patent No. 6,301,668 to Gleichauf et al.
U.S. Patent No. 6,321,338 to Porras et al.
U.S. Patent No. 6,324,647 to Bowman-Amuah
U.S. Patent No. 6,347,374 to Drake et al.
U.S. Patent No. 6,353,385 to Molini et al.
U.S. Patent No. 6,405,318 to Rowland
U.S. Patent No. 6,405,364 to Bowman-Amuah
U.S. Patent No. 6,438,600 to Greenfield et al.
U.S. Patent No. 6,460,141 to Olden
U.S. Patent No. 6,484,203 to Porras et al.
U.S. Patent No. 6,519,647 to Howard et al.
U.S. Patent No. 6,530,024 to Proctor
U.S. Patent No. 6,535,227 to Fox et al.
U.S. Patent No. 6,546,493 to Magdych et al.
U.S. Patent No. 6,574,737 to Kingsford et al.
U.S. Patent No. 6,578,147 to Shanklin et al.
U.S. Patent No. 6,584,454 to Hummel, Jr. et al.
U.S. Patent No. 6,601,190 to Meyer et al.
U.S. Patent No. 6,606,744 to Mikurak
U.S. Patent No. 6,647,400 to Moran
U.S. Patent No. 6,661,904 to Sasich et al.
U.S. Patent No. 6,681,331 to Munson et al.
U.S. Patent No. 6,691,232 to Wood et al.
U.S. Patent No. 6,704,874 to Porras et al.
U.S. Patent No. 6,708,212 to Porras et al.
U.S. Patent No. 6,711,615 to Porras et al.
U.S. Patent No. 6,725,377 to Kouznetsov
U.S. Patent No. 6,775,780 to Muttik

U.S. Patent Application Publications
U.S. Patent Application Publication No. 2001/0034847 to Gaul, Jr.
U.S. Patent Application Publication No. 2002/0144156 to Copeland, III
U.S. Patent Application Publication No. 2003/0088791 to Porras et al.
U.S. Patent Application Publication No. 2003/0212903 to Porras et al.
U.S. Patent Application Publication No. 2004/0010718 to Porras et al.

The Applicant submits that these search terms note above cannot be interpreted as providing emphasis on these terms when the claims are interpreted and construed by both the Examiner and the courts. The Applicant merely selected these terms to identify the prior art that may be more relevant than prior art that do not contain these search terms.

Appl. Serial No. 09/447,500

To further assist the Examiner, the Applicant has organized each of the U.S. Patents and U.S. Patent Application Publications according to classification. For the non-U.S. patent prior art, the Applicant has annotated Form PTO-1449 with the location of each document in a respective box.

Non-Patent Information Contained in Boxes Submitted with IDS of July 25, 2005

In addition to the information about the U.S. Patents and U.S. Patent Application Publications that has been voluntarily provided above, the Applicant further submits that Boxes 1 and 2 of the July 25, 2005 IDS contain mostly non-patent, English language publications that have been published by third parties and that are known by the Applicant and the current assignee of the instant application. Box 3 of the July 25, 2005 IDS contains some non-patent, English language publications that have been published by third parties as well as by the current assignee of the instant application. Box 4 of the July 25, 2005 IDS contains mostly non-patent, English language publications that have been published by the current assignee of the instant application.

With respect to the non-patent, English language publications that have been published by the current assignee of the instant application and that can be found in Boxes 2, 3 and 4, the Applicant submits that many of these publications relate to security software products that have been sold by the current assignee of the instant application over the past several years. Some of these security software products have been sold under, but are not limited to, the following trade names or product names:

Real SecureTM;
Safe Suite;
System Security Scanner
System ScannerTM;
Database Scanner; and
Internet ScannerTM.

The products mentioned above and their corresponding non-patent, English language publications listed in the IDS of July 25, 2005 generally describe security assessment and

Appl. Serial No. 09/447,500

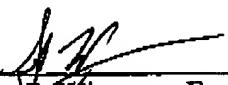
intrusion detection tools that can identify and report potential computer system weaknesses relative to computer security threats.

Conclusion

The Applicant exerted this additional time and voluntary effort to help the Examiner so that if a patent is ever issued on this patent application, third parties will understand that the Applicant submitted the prior art of July 25, 2005 on a good faith basis and without any deceptive intent.

If the Examiner has any questions concerning the IDS of July 25, 2005, he is requested to contact the undersigned.

Respectfully submitted,
KING & SPALDING LLP

By 
Steven P. Wigmore, Esq.
Reg. No. 40,447
Tel. (404) 572-4600